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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/748,359

12/26/2000

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07/11/2007

EXAMINER

PORTER, RACHEL L

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

07/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/748,359

Applicant(s)

LENCKI ET AL.

Examiner

Rachel L. Porter

Art Unit

3626

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY: FILED 09 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1-12 14-31-33-48, 50-51, 70-79, 81-82, and 106-107.  
Claim(s) withdrawn from consideration: none.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_

  
JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The canceled subject matter alters definition and interpretation of claim terminology.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but they are not persuasive.

(A) Applicant argues that the Wizig fails to disclose "line item."

It is noted that the independent claims 1,21,40,70, and 106, each recite the terms benefit category(-ies), line item(s) (associated with benefit categories) and benefit types.

However, as explained in the Final rejection mailed 2/9/07, it is not clear from the claim language or the specification how the the terms "benefit category(-ies)", "line item(s) (associated with benefit categories)" and "benefit types "are defined, or relate to one another in a manner that distinguishes one from the other.

For example, claims 5 and 74 states that the "line items" are selected from the group consisting of: preventative care, physician care, hospital care...vision care, and behavior health care services. However, on page 22 of the current of the response, Applicant argues that in Figure 22C of the Applicant's specification "shows the following benefit categories: preventative care, physician care, hospital care...vision care, and behavior health care services." Applicant further argues that the plurality of line items are in fact "\$0.00 copy/\$54.30 monthly benefit cost; \$10.00 fixed copy/\$47.47 monthly benefit cost..."

Thus it is unclear to the Examiner how the "plurality of different line items" is distinguished from benefit categories. Similarly, it is unclear how a benefit type is distinct from benefit category. Furthermore, these terms do not seem distinct from the selectable categories of care offered to an individual/ employee as disclosed by Wizig.

(B) Applicant argues that these terms are defined by the claim language, particularly "line item," is defined by the claim language. In response, the Examiner is unable to find and the Applicant does not provide support for the Applicant's current "definition" of the term "line item" in the originally filed disclosure (Dec. 2000), or in the provisional applications (Dec. 1999 or May 2000). In the absence of a specific definition (properly supported by the specification), the Examiner must give terms the broadest reasonable interpretation and apply art accordingly.

Thus it is unclear to the Examiner how the "plurality of different line items" is distinguished from benefit categories. Similarly, it is unclear how a benefit type is distinct from benefit category. Furthermore, these terms do not seem distinct from the selectable categories of care offered to an individual/ employee as disclosed by Wizig.